

REMARKS

Claims 1-3, 5 and 10-12 are pending in this application.

By this Amendment, claim 12 is added. No new matter is added by this Amendment. Support for new claim 12 is found in the original specification and Figures. In particular, support for the language added by claim 12 is found in Figures 1 and 2.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Royal in the July 14 and 15, 2004 interviews. Applicants' separate record of the substance of the interviews is incorporated into the following remarks.

During the first interview on July 14, the Examiner indicated the rejection of claims 1-3, 5, 6 and 8 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 2,374,182 (hereinafter "Duke") has been overcome by the Amendment filed on June 25, 2004.

With respect to the rejection of claims 4, 5 and 7 under 35 U.S.C. §102(b) as allegedly being unpatentable over Duke, claims 4 and 7 were canceled by the Amendment filed on June 25, 2004. However, claim 1 was amended to incorporate the subject matter of claim 4.

During the July 14 interview, Applicants argued that there would be no motivation to modify Duke as alleged by the Office Action. Further, Applicants submit that it is not a simple matter of design choice to modify the seat in the walker disclosed by Duke into two separate seat portions. One of ordinary skill in the art would not have modified Duke as such a modification would require additional parts and there would be no benefit to modify the walker of Duke in such a way. The Patent Office has failed to provide any reason as to why one skilled in the art would have modified Duke in the alleged manner.

Further, with respect to the rejection of the claims in view of Duke, the Patent Office (1) is merely using impermissible hindsight in its suggestion that it would have been obvious to modify Duke to obtain the claimed invention and (2) has failed to provide any reason as to why one skilled in the art would have modified Duke as suggested.

There is simply no motivation to modify Duke as suggested by the Patent Office. Specifically, because the seat 19, disclosed by Duke, is capable of rotating to a vertical position, either in an upward or downward direction, there is no need for the seat to be modified into two separate components to aid in folding the vehicle.

Duke further teaches away from using a pair of seat plate portions in that Duke teaches a vehicle in which a user can not easily sit on the projected seat plate because, for example, a handicapped user would not be able to easily step over the projected seat plate.

Finally, there are a number of benefits associated with a seat plate that comprises a pair of seat plate portions. For example, a user may choose to project only one seat plate portion to the inside area of the vehicle, thereby allowing the user to sit on the projected seat plate portion, giving the user additional height in order to, for example, reach items or objects that may have formerly been out of reach.

Also during the July 14 interview, the Examiner cited U.S. Patent Nos. 5,348,336 (Ferne) and 5,380,262 (Austin) as possibly relevant patents to the claimed invention. Applicants submit that neither of these additional references teaches or suggests the claimed invention.

Ferne teaches a walking aid for a handicapped person having two seat portions 134a and 134b. The inner ends of the seat portions are connected to a cross member 138. The two seat portions 134a and 134b are dimensioned so that they do not meet in the center even when fully extended to permit a handle 140 to be extended upwardly for ease of carrying the walker when the walker is collapsed. See col. 7, lines 58 to col. 8, line 3 and Figures 1 and 5 of Ferne. By this configuration, Ferne is teaching away from a seat plate comprising a pair of seat plate portions, wherein the seat plate portions are projectable from each side of the user to an area where the legs of a walking user move and wherein the seat plate portions are removed from the area where the legs of the walking user move when the user walks, as

recited in claims 1, 10 and 11. Instead, Fernie teaches that the seat portions are only moved when the walker is collapsed. Further, the configuration of Fernie requires a crossbar and a handle of the crossbar directly in between the two seat portions, thereby causing a protrusion in an area where a user may sit.

Austin teaches a walker with a seat formed of two hinged connected panels whereby the seat may be folded in half. See the Abstract. The structure of the walker disclosed by Austin requires that the panels 59 of the seat be attached directly in the center of the seat. See the Figures of Austin. Accordingly, the panels 59 that make up the seat taught by Austin are always attached. This configuration teaches away from seat plate portions that are removed from the area where the legs of the walking user move when the user walks using the vehicle, as recited in claims 1, 10 and 11. More specifically, the configuration of Austin teaches away from a seat plate that is pivotable about a predetermined axis wherein the seat plate is projected to an area where the legs of the walking user mover by pivoting the seat plate, as recited in claim 2.

During the second interview on July 15, the Examiner acknowledged that Fernie and Austin were not relevant at least because the seat portions of the walkers taught by both Fernie and Austin each are inoperable when the seat portions are not fully extended.

For the foregoing reasons, Applicants submit that claim 1 and the claims dependent therefrom are in condition for allowance. Reconsideration and withdrawal of the rejection are thus respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-3, 5 and 10-12 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Linda M. Saltiel
Registration No. 51,122

JAO:LMS/hs

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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